IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 22848 of 2004

Between:

K. Rajagopal Rao, S/o. Late Tirumal Rao,
R/o. Singotam Village, Kollapur Mandal, Mahaboobnagar . . . District.

..... PETITIONER

AND

1 The Union of India, Rep. by its Deputy Secretary,
Ministry of Home Affairs, Freedom Fighters Division,
Lokh Naik Bhavan, New Delhi.
2 The Government of Andhra Pradesh, Rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad.

..RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction preferably a Writ in nature of Mandamus directing the first respondent to grant me Swatantra Sainik Sanman Pension Scheme 1980, with arrears from the date of application i.e. from May 1985 and set aside the rejection letter No. 112/6087/97-FF(HC) dt. 25-6-2002 of the first respondent.

Counsel for the Petitioner:MR.T.L.KRISHNA PRASAD

Counsel for the Respondent No.1 .: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

The Court made the following :

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ORDER:

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This writ petition is filed by K.Rajagopal Rao claiming to be freedom fighter with a prayer to issue appropriate writ or direction preferably a writ in the nature of mandamus directing the 1st respondent-Union of India, Ministry of Home Affairs, Freedom Fighters Division, Lokh Naik Bhawan, New Delhi to grant him Swatantra Sainik Sanaman Pension Scheme, 1980.

2. The petitioner claims to have participated in freedom movement for the merger of Hyderabad State in the Indian Union during the year 1947-48 and the Police Patel of Singotam village reported of his activities to the Sub-Inspector of Police, Kollapur and after enquiry, the Sub-Inspector of Police, Kollapur registered the case No. 51 of 1357 Fasli against him under Section 155 of Hyderabad State Criminal Procedure Code and sent a report to the Munsiff Magistrate, Kollapur and there upon a warrant of arrest came to be issued against the petitioner and issued a warrant for his arrest. The petitioner on coming to know of issuing a warrant, he went underground and carried on sabotage activities against the Nizam Government from 17-8-1947 to 29-9-1948. He applied for pension under Swatantra Sainik Sanman Pension Scheme,1980. The District Collector, recommended his case to the Secretary to the Government Revenue FF-II Department and thereupon the Government of Andhra Pradesh forwarded the proposal to the Deputy Secretary to the Government of India, Ministry of Home Affairs, Freedom Fighters Division, Lokh Naik Bhawan, New Delhi-1st respondent herein. The 1st respondent rejected the claim of the writ petitioner on the ground that the writ petitioner is found to be not eligible for grant of Swatantra Sainik Sanman. Questioning the order of the rejection of the 1st respondent, this writ

petition has been filed.

3. One S.K.Kohli has sworn to the counter affidavit filed on behalf of the 1st respondent. It is stated in the counter affidavit that the claim of the writ petitioner has been considered and his claim has been rightly rejected since he did not comply with necessary requirements which are essential for grant of possession under the scheme.

4. The learned counsel for the petitioner submits that the petitioner went underground consequent on issuance of arrest warrant against him and therefore, he is eligible to claim pension under Swatantra Sainik Sanman Pension Scheme, 1980. It is also submitted by him that subsequent to the rejection order, the writ petitioner submitted another representation giving necessary clarifications to the discrepancies pointed out by the 1st respondent in the impugned order. In support of his submission, he placed reliance on a decision of Supreme Court ***Mukund Lal Bhandari Vs. Union of India*** wherein it has been held:

> " *The respondents should scrutinize every application and the evidence produced in support of the claim and dispose it of as expeditiously as possible and in any case within three months of the receipt of the application, keeping in view the laudable and sacrosanct object of the Scheme".*

5. The eligibility to get Swatantra Sainik Sanman Pension, as it came to be called from August, 1, 1980 depended upon the freedom fighter having suffered a minimum imprisonment of six months. However, if the freedom fighter was a woman or belonged to the Scheduled Caste or Scheduled Tribe community, the minimum period of actual imprisonment was reduced to three months. While explaining the meaning of actual imprisonment the scheme states: (a) the detention under the orders of the competent authority will be considered as imprisonment: (b) the period of normal remission up to one month would be treated as part of the actual imprisonment (c) in case the trial ended in conviction, the under trial period would be counted towards actual imprisonment suffered (d) the broken period of imprisonment would be totalled up for computing the qualifying period (e) the person remaining under ground for more than six months, provided he was a proclaimed offender or one for whom an award for arrest or for his head was announced or one for whose detention order was issued but not served and (f) the person interned in his home or externed from his district for six months or more, a person whose property was

confiscated or attached or sold due to participation in the freedom struggle, a person who became permanently incapacitated on account of violence inflicted on him during such struggle, a person who lost his Government job, Central or State, and thus the means of livelihood for participation in such struggle, were also made eligible for the pension.

6. The 1st respondent while rejecting the claim of the writ petitioner has pointed out certain defects in the application sent by him. The defects as noted in the letter addressed to the writ petitioner are as follows:-

1. *You have not claimed the specific period of your under ground suffering in your proforma application dated May, 1985.*

2. *In the Proforma application dated May, 1985 you have furnished the Camp in charge Certificate from Sri K.Krishtam Raju in the Camp situated at Jammala Madaka where in the State verification report the name of the Camp in charge has been mentioned as Sri B.Gopala Reddy and the name of the camp has been recorded as Moorakonda of Kurnool.*

3. *The certifier's have not given the complete particulars of the case in which you had to go underground and the authority who issued warrant of detention order.*

7. It appears the writ petitioner has submitted another representation clarifying the discrepancies pointed out by the 1st respondent. A copy of the representation has been placed on record. In such a situation, I deem it appropriate to direct the 1st respondent to consider the representation submitted by the writ petitioner clarifying the discrepancies pointed out in the impugned order. The 1st respondent shall pass appropriate orders on the representation submitted by the writ petitioner within two months from the date of receipt of a copy of this order.

8. With the above directions, the writ petition is disposed of. No order as to costs.

B.Seshasayana Reddy,J

16th June, 2005.

Note:

C.C. in a week.

B/o

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Deputy Secretary, Union of India,
Ministry of Home Affairs, Freedom Fighters Division,
Lokh Naik Bhavan, New Delhi.
2 The Secretary,Government of Andhra Pradesh,
Revenue Department, Secretariat, Hyderabad.

3. 2 CCs to the G.P. for Revenue, High Court Buildings, Hyderabad(OUT

4. 2 CD copies

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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16TH JUNE, 2005.